

**MINUTES OF THE MILLVILLE
TOWN COUNCIL MEETING
November 8, 2016 @ 7:00 p.m.**

In attendance were Mayor Bob Gordon; Deputy Mayor Steve Maneri; Treasurer Susan Brewer; Council Member Steve Small; Town Solicitor Seth Thompson; AECOM Representative Kyle Gulbranson; Town Executive Assistant Matt Amerling, and Town Code & Building Administrator Eric Evans. Secretary Valerie Faden and Town Manager Debbie Botchie were absent.

1. CALL MEETING TO ORDER

Mayor Bob Gordon called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ADOPTION OF TOWN COUNCIL MINUTES AND NOTES

A. Adoption of Town Council Minutes – October 11, 2016

Deputy Mayor Steve Maneri motioned to approve the minutes from the October 11, 2016, Town Council meeting. Council Member Susan Brewer seconded the motion. Motion carried 4-0.

4. FINANCIAL REPORT – Treasurer Susan Brewer

A. October 2016

Treasurer Susan Brewer read the Financial Report for the month ending 10/31/16.

October 31, 2016:

General Revenue: \$ 118,475. Restricted Revenue: \$ 172,367.

General Expenses: 41,545. Restricted Expenses: 189,847.

Council Member Steve Small motioned to approve the Treasurer's Report for the month ending October 31, 2016. Deputy Mayor Steve Maneri seconded the motion. Motion carried 4-0.

5. ADMINISTRATIVE MATTERS

A. Administrative Report for October 2016 – Town Manager

There were no comments.

MOTION TO ENTER PUBLIC HEARINGS

Ms. Brewer motioned to enter public hearings at 7:04 p.m. Mr. Small seconded the motion. Motion carried 4-0.

6. Old Business

A. Public Hearing Notice – Deputy Mayor Steve Maneri

B. Written Comments – Town Manager

There were no written comments.

- C. Discuss Ordinance 17-04 – Town Solicitor Seth Thompson** *Synopsis:* Ordinance 17-04 amends the Town of Millville Code at Chapter 155, Article IX, entitled “Sign Regulations,” which adds more definitions regarding prohibited signs as well as giving the Town more restrictive prohibited sign regulations. Town Council voted 5-0 at its September 13, 2016, Town Council meeting to schedule a public hearing for this ordinance.

Town Solicitor Seth Thompson stated Ordinance 17-04 sets forth some definitions for prohibited signs, signs prohibited in all districts, as well as adding some more definition to certain signs, such as bandit signs, off-premise sign, etc. Mr. Thompson stated in terms of other items the Ordinance covers, there is language with a three-foot-by-five-foot (3’x5’) flag not having to just have the word “open” on it as well as the size being no more than 3’x5’, so a business can still put out a flag which reads “open” or they can put out a flag that doesn’t necessarily need to say “open.” Mr. Thompson further stated the property owner has to have the flag attached to the front façade of the building and the flag is only to be displayed when the on-premises business or organization is open to the public. Mr. Thompson stated each business or organization is only permitted one (1) flag, with the exception of a national flag (i.e., American flag), flags of political subdivisions, and the State of Delaware flag. Mr. Thompson stated the Ordinance also attempts to lay out a better process for dealing with bandit signs – such as the realty signs or small construction signs – and have divided the penalties into (1) dealing with permanent signs which pose a problem – and will still be subjected to the normal process of Town Code & Building Administrator Eric Evans sending out a citation; and (2) dealing with the bandit signs under the process of the Code & Building Administrator causing those signs to be removed and issue a notice to the owner for violation of twenty-five dollars (\$25) per sign, which is more commiserate with someone putting out a real estate sign or something like that; and the owner has ten (10) days to retrieve the sign and pay the fine, but if the owner has not paid the fine within the 10 days, then the Code & Building Administrator can go through the usual route of converting that fine into the judgement. Mr. Thompson stated the only other thing the Ordinance does is to eliminate the duplicative language already mentioned in the code enforcement section.

Council Member Steve Small asked if it would be proper or improper under tonight’s new sign ordinance if a business owner had a permanent, full-sized, on-premise political sign in front of a business. Mr. Thompson stated the Town’s political signs are still limited to a certain size, cannot be permanent, and that kind of sign would be prohibited in all districts.

D. Residents/Property Owner Comments & Questions

Mr. Doug Poland, of Park View Street, asked if sports team flags for one day of the week are prohibited for a residential property. Mr. Thompson stated this ordinance pertains mostly to flags for businesses, and residential is a little more broader. Mr. Small stated he heard Town Manager Debbie Botchie was going to a sports bar in Town and discuss with them about its permanent displaying of six (6) to eight (8) NFL flags, but Mr. Small does not know how that was resolved. Mr. Thompson stated under this ordinance tonight, that usage would be regulated to the one (1) flag and only when the business is open.

7. New Business

A. Public Hearing Notice – Deputy Mayor Steve Maneri

B. Written Comments – Town Manager

There were no written comments.

C. Discuss a final site plan submitted by Millville Town Center, LLC, for Phase 1 of Sea Star Village (formerly Topsail Village), located in Millville by the Sea (MBTS). Synopsis: The applicant is proposing nineteen (19) lots in this phase. The preliminary site plan was reviewed and approved 4-0 at the Town Planning & Zoning (P&Z) Committee meeting on March 1, 2016. At its March 9, 2016, Town Council meeting, Council voted 3-0 (with 2 abstentions) to approve the preliminary site plan for Topsail Village/Sea Star Village.

Deputy Mayor Steve Maneri recused himself from the dais. Mr. Chuck Ellison, of Miller & Smith, stated Miller & Smith will only be managing Millville by the Sea (MBTS) until December 31, 2016, and Mr. Ellison gave a description of the location of what was being discussed for tonight's Section One (1) of Sea Star Village. Mr. Ellison showed a preliminary site plan for all of Sea Star Village as approved at the March 9, 2016, Town Council meeting, pointing out the three (3) different sections (or phases) of the village. Mr. Ellison stated the lake near Sea Star Village, even though it's mostly surrounded by section three (3), is a part of the construction plans for section one (1), specifically because of stormwater management for the entire village. Mr. Ellison further stated Miller & Smith have all of the technical approvals for the section, including from Tidewater, Sussex Conservation District, and the State Fire Marshal. Mr. Ellison stated even though it is not a part of the plan, he wanted to talk about the residents' concerns over construction traffic and the speed of said traffic. Mr. Ellison stated Miller & Smith does have a haul road which comes in off of Substation Road, which will be maintained for the first two (2) sections (of Sea Star Village), and, for section three (3), the haul road will be located further down. Mr. Ellison further stated Miller & Smith are currently in the process of reviewing and preparing a better traffic control plan for the construction traffic, which Miller & Smith plans on meeting with the Town about in the very near future to discuss the various devices which are available and regulatory to Town Code and DelDOT's standards. Mr. Ellison stated there is one (1) modified product in Sea Star Village and that is the cottage lots, which will be wider lots than what they were in Sand Dollar Village. Mr. Ellison stated there will also be the building of some seventy (70) foot-wide lots, which will be a bit

bigger product and probably a little bit wider and shallower, but the architectural themes and styling will remain consistent.

Mr. Small asked if Council approves this plan tonight, will ground be broken during this current calendar year (2016). Mr. Ellison stated he does not think the developer would get started until the first quarter of 2017 due to the administrative process of posting bonds, preparing the public works agreement, preparing the landscape maintenance agreement, along with all of the holidays. Mr. Small stated Miller & Smith's transition out of MBTS is a bit obscure and come this time in January, Miller & Smith will no longer be a part of MBTS, so does the Town know who it needs to contact after Miller & Smith has left? Mr. Ellison stated the Town will know who to contact by that time (January). Mr. Small asked if that information is currently known. Mr. Ellison stated no, "the structure is being developed as we speak." Mr. Small stated if the Town does not have that information prior to the end of the year, it leaves the Town in a very awkward position of freezing things as they stand unless the Town can make contact with the owners of the property and get further instruction. Mr. Ellison stated Miller & Smith can provide the Town with that information and wants to emphasize the ownership of MBTS under Millville Town Center LLC is not changing but will remain the same; and rather, it is the management under Miller & Smith that is merely changing. Mr. Small stated he understands that but he is hoping the Town will have an appropriate person who is authorized to speak on behalf of this and to sign anything that needs signing come January 1 (2017). Mr. Ellison stated the Town will have someone. Mr. Small stated he expected more from the owners as to what their plans will be. Mr. Ellison stated LBC Advisors, based out of California, are the owners and Mr. Ellison will certainly relay that to them. Mr. Ellison further stated the Town will have a contact name and phone number this week. Mr. Ellison stated there were representatives from LBC in Town about a week ago and they were set to meet with Town Manager Debbie Botchie, but, unfortunately, Ms. Botchie had some personal issues come up so the meeting had to be canceled.

D. Residents/Property Owner Comments & Questions

Mr. Wally Bartus, of Huntington Street, stated he is concerned about the extension in Sea Star Village because Mr. Bartus knows Mr. Ellison mentioned construction access obtained but this is a small subsection of the entire plan Miller & Smith is putting forward. Mr. Bartus stated he does not know if Council has seen the brochure being distributed to MBTS residents, showing the entire buildout plan of the units. Mr. Bartus proceeded to distribute a copy of the brochure to everyone on the dais. Mr. Bartus stated the concern the residents of MBTS have right now is literally physical access. Mr. Bartus further stated Mr. Ellison referenced there was one traffic calming device put in place down at a crosswalk located around Huntington Park (as referenced on the brochure), because the residents have had a problem not just with construction vehicles but also with residential and visitor traffic coming through. Mr. Bartus stated the MBTS residents have asked for the addition of more traffic calming devices because there are quite a few people careening down the street. Mr. Bartus stated one of the MBTS residents has done a traffic study for the development and, with the current, "no new construction," in one (1) twelve (12)-hour period coming down just Huntington Street, this

resident clocked in over one-hundred-thirty-five (135) vehicles. Mr. Bartus further stated, sadly, even though the street is marked with a speed limit of twenty-five (25) miles per hour (mph), quite a few cars are clocked in at speeding through at forty-five (45) mph, which is an endangerment to children in and around the street. Mr. Bartus stated the other part to this is access; there is a piece of property, owned by Millville Town Center LLC, located to the south of the village which would provide alternative access to Beaver Dam Road. Mr. Bartus stated should there be an accident in front of Huntington Park, there is then zero (0) access via paved street to this new section which is going to be built, and it does not strike Mr. Bartus as a good idea. Mr. Bartus stated he and the MBTS residents were looking to possibly having another access road built through the narrow piece of land owned by Millville Town Center LLC, which goes out to Beaver Dam Road. Mr. Bartus stated he checked to make sure the strip of land is wide enough to accommodate a road and it is. Mr. Bartus further stated this strip of property would be abandoned at this point and that strikes Mr. Bartus as not a good use of the property. Mr. Paul DuCott, of Huntington Street, stated he would pass on his comment as Mr. Bartus said everything he wanted to say.

Mr. Dwight Yeager, of Tudor Place, asked when the developer first approached the Town with the master plan for MBTS, did the developer present to the Town a traffic impact statement? Mayor Bob Gordon stated if it was released, it happened long before any of current Council members were on Council, but for six (6) years, Mayor Gordon has not seen anything on traffic impact. Mr. Kyle Gulbranson, of AECom, stated a traffic study was conducted back when the development was first proposed to the Town, and it went through the State Preliminary Land Use Service (PLUS) process as well. Mr. Yeager asked if the document would be on file here at Town Hall for review. Mr. Gulbranson stated it should be. Mr. Yeager stated two (2) years ago, he came before Council to express concerns about construction traffic traveling on Huntington Street as Sand Dollar Village Phase Two (2) was being built and the developer did respond by putting up some signage, giving a slight calming effect. Mr. Yeager further stated based on some of the representative's comments tonight, everyone's looking at nineteen (19) more pieces of property coming in and if anyone's familiar with the institute of traffic engineering, we can safely assume these 19 pieces of property sometime soon will generate 19 more vehicles to add to the traffic. Mr. Yeager stated there is an issue on this street (Huntington) which doesn't seem to get resolved and recently, there were two (2) cement trucks which came down this road and they did not use the construction access road, making the residents have to self-govern the traffic and approach the contractor themselves to let the contractor know of the violation, which often leads to a barrage of obscenities from the contractor, followed by the contractor saying they'll go wherever they want to go. Mr. Yeager stated when the residents bring this to the developer's attention, each time the response given by the developer is they will give the resident the contractor's name and number to give the contractor company a phone call and complain. Mr. Yeager stated that is not his job; that is the developer's job and not that of the citizens'. Mr. Yeager stated the construction access road needs to be enforced in some way, shape or form, and that should be considered when Council is reviewing these plans. Mr. Yeager stated he has twenty-seven-and-a-half (27 ½) years of law enforcement experience, a lieutenant in charge of traffic operations, and he used to do these traffic studies all of the time; then, when he retired from law enforcement, Mr. Yeager worked ten (10) years for the New Jersey Department of Transportation, doing basically the same

thing, as well as having a background in crash reconstruction and traffic engineering. Mr. Yeager stated he is very familiar with running a traffic analysis and beginning this past first, third and fourth of November 2016, Mr. Yeager did a count of traffic and speed analysis of Huntington Street. Mr. Yeager further stated the average traffic was one-hundred-thirty-four (134) vehicles between 6 a.m. to 6 p.m., and the average speed for the vehicles was thirty-point-eight-three (30.83) mph, which is not too bad since the speed limit is 25 mph, but residents have approached the developer about needing a speed bump or something of that nature, to which a speed bump was installed. Mr. Yeager stated the 85th percentile of cars traveling Huntington is one-hundred-thirteen-point-nine (113.9) and the 85th percentile of speed is thirty-five (35) mph. Mr. Yeager stated on June 7, 2016, the residents went to the developer to thank them for the speed bump, but requested more speed bumps, to which they got one (1). Mr. Yeager stated the residents went back to the developer on October 7, 2016, and said the one (1) works great but they need more (speed bumps), to which the developer suggest the residents and developer meet at the site on October 14, 2016, which the residents did, and the developer presented a new raised pavement marker idea which doesn't really do anything. Mr. Yeager further stated the residents raised their concern to the marker's inability, and the developer told them they "would get back to you" on October 21, 2016. Mr. Yeager stated October 21 came and went without a word from the developer, and on November 2, 2016, the residents had another homeowners association (HOA) meeting and when it was brought up to the developer the residents were waiting for a response, Mr. Yeager was told the package was given to the new representative out in California. Mr. Yeager stated he contacted the new representative and, to this day, have still not heard back from this individual yet.

Mr. Small asked what remedy Mr. Yeager would seek from Council. Mr. Yeager stated, right now, the remedy from this Council would be to take a look at this section of development that's being proposed tonight and make sure that what the developer is saying is going to happen will happen, to make sure the construction road will be put in or enhanced or whatever they have in mind. Mr. Yeager stated maybe the developer should meet with the residents and inform them of what the developer plans on doing. Mr. Yeager stated he would also like Council to penalize the developer if they don't stick to their plan and there are any complaints. Mr. Gulbranson stated he thinks the public works agreement the Town will put together for this phase/section can have stronger language to address concerns over construction vehicle use on those regular streets, and the Town could put language in to the agreement saying if they're in violation, then they will be stopped onsite. Mr. Thompson stated that is the Town's method for specifically controlling a project and the public works agreement is the right place for setting it so the Town can issue a cease-and-desist order. Mr. Thompson asked Mr. Ellison if Miller & Smith has used signage in the past for the construction entrance. Mr. Ellison stated the one (1) haul road is already in place today, and the extension of the haul road is on the plans for section three (3). Mr. Ellison stated there are signs posted at all of the entrances, and if Mr. Jack Tucker – who is the onsite manager and can't be at every entrance every day – is onsite, then he can keep the construction vehicles in line. Mr. Ellison asked Mr. John Dayton, of Christopher Companies, what they do to keep construction traffic going the correct way. Mr. Dayton stated he has no comment at this point. Mr. Ellison stated he knows Christopher Companies and Town Code & Building Administrator Eric Evans work with the contractors to make sure the rules are enforced when it comes to construction traffic. Mr. Ellison stated

Miller & Smith has no problem with if Council wants to make a condition of approval to setting a traffic calming plan. Mr. Thompson stated he thinks that makes sense but the one thing Mr. Thompson is trying to get a grip on is how the traffic calming devices will make sense in section one (1) (of Sea Star Village). Mr. Ellison stated that is what Miller & Smith is analyzing, to make sure Miller & Smith get it right, because there is a little bit of a “law of unintended consequences” and they are looking into some of the features which can be considered.

Town Code & Building Administrator Eric Evans stated he doesn’t want to “throw more weeds into this” but there is an issue with property owner’s personal contractors – such as landscapers, pavers – using the regular streets so that counts for a lot of the traffic and speed. Mr. Evans stated the residents are asking for the Town to police something of which personal contractors are not following either. Mr. Yeager stated he sees Mr. Evans’ point but a landscaper with a pick-up truck is not the same as a cement truck. Mr. Evans stated he will contact the companies who are using these streets, but he needs the name of the contractor company, the dates and times of the violation so when Mr. Evans contacts the company, he will have definitive proof. Mr. Yeager stated the concern the residents are trying to address is Sand Dollar Village Phase 2 is almost complete so construction thru-traffic will not be expected much longer, but once the next section is started, nine (9) out of ten (10) times, those construction vehicles will not use the construction access road, and so Mr. Yeager will have to sit on his porch and wait and document the dates and times to give to Mr. Evans, which is something Mr. Yeager feels he shouldn’t have to do. Mr. Yeager stated the ultimate concern is if a child or dog were to get hit by one of these construction vehicles, and that is why the residents are approaching the Town about maybe putting in a back entrance with a gate on it or something.

Mr. Chris Ludlow, of Pembroke Lane, stated he mirrors what Mr. Yeager said, and it is the same thing on Pembroke Lane, and if these contractors have an access road, they should use it.

Mr. Bartus stated when he looked at the sales literature handed out in 2013, Huntington Park actually had Huntington Street as well as Kennesaw Street connected across the bottom, but that went away; so now all traffic is being funneled down one street from what was the original traffic study. Mr. Bartus stated he knows there are changes over time, but sometimes these incremental changes create a problem where there is too much traffic in one spot. Mr. Bartus further stated when he met with Ms. Botchie to talk about some of this stuff, Ms. Botchie mentioned she had gone to the DelDOT site and confirmed the current traffic calming for MBTS is the DelDOT standard, but the raised reflectors would be scraped off the road by any snow plows if it were to snow.

Ms. Susan Twigg, of Pembroke Lane, stated if the Town is looking at these traffic calming areas, Ms. Twigg would like the calming also done for Pembroke Lane as well because they have the same problem with traffic volume and speeding. Mr. Ellison stated Miller & Smith are taking a holistic look at the entire community.

Mayor Gordon asked Mr. Ellison what the timeframe would be to put in some more speed bumps to slow traffic. Mr. Ellison stated he has no problem accepting a condition to have these traffic calming devices in place before construction is to begin. Mayor Gordon stated he does not want Miller & Smith moving out while these residents are waiting for a year or so for the process to begin and then there are cement trucks traveling down their residential roads.

Mr. DuCott asked if the only thing for Council to vote on this evening are only the nineteen (19) lots in section one (1) of Sea Star Village. Mayor Gordon stated yes. Mr. DuCott asked if there will be any discussion or public hearings on section two (2). Mr. Thompson stated yes, there will be the same process for section two (2) as with section one (1) tonight. Mr. Thompson stated he thinks the Town can deal with the traffic calming plan in terms of the stem of property, which looks like that would be a part of section three (3), so that is getting a little ahead of ourselves.

Ms. Maureen Walker, of Ogelthorpe Lane, stated she is in support of what Mr. Bartus and Mr. Yeager have stated tonight.

MOTION TO CLOSE PUBLIC HEARINGS

Ms. Brewer motioned to close the public hearings at 7:56 p.m. Mayor Gordon seconded the motion. Motion carried 4-0.

8. OLD BUSINESS

A. Discuss and possible vote on Ordinance 17-04.

Mayor Gordon requests individual vote.

Ms. Brewer motioned to approve Ordinance 17-04. Mayor Gordon seconded the motion. Mr. Maneri voted yes. Ms. Brewer voted yes. Mr. Small voted yes. Mayor Gordon voted yes. Motion carried 4-0.

9. NEW BUSINESS

A. Discuss and possible vote on a final site plan for Phase 1 of Sea Star Village, located in Millville by the Sea.

Mayor Gordon requests individual vote.

Mayor Gordon motioned to approve the final site plan for Phase 1 of Sea Star Village, located in Millville by the Sea, with the conditions of (1) The Town and the applicant agree upon a traffic calming plan, and (2) The Town will approve plans for the construction access. Mayor Gordon asked the residents if they were satisfied with the conditions.

Mr. Yeager stated he does not find those conditions as difficult to accept, but the issue is still the flag lot and the back road coming in. Mr. Thompson stated that lot and road will be a part of section three (3), so they are not a part of section one (1) which is only under review tonight.

Mr. Small asked the audience if the adoption of this motion, with those conditions, satisfy the concerns at this point of those here tonight. Mr. Small stated if it does satisfy, then the Town should go forward, but if it doesn't, maybe Council needs to consider tabling this issue. Mr. Bartus asked for the nineteen (19) lots under review to be pointed out. Mr. Ellison pointed out the lots and section on the site plan under review. Mr. Evans confirmed the section only has 19 lots.

Mr. Jim Morrison, of Tybee Street, asked where all of the construction traffic will come in for those 19 homes. Mr. Evans stated the construction traffic is supposed to come in at the existing construction entrance up by the construction trailer. Mr. DuCott asked if using the current construction road where it meets at the end of Huntington, this development (Sea Star Village) is going to be on the other end. Mr. Evans stated yes. Mr. DuCott asked if construction traffic will still have to cross the property in order to get to Sea Star. Mr. Evans stated construction traffic crosses the Sea Star Village now to get to Lakeside so the road will still be there while the construction is going on; however, they will be doing work on Summerset Boulevard because some of the sewer lines are going in there. Mr. DuCott asked if, on Summerset, facing the field, how many lots are going in that field. Mr. Evans stated nineteen (19) lots.

Ms. Twigg asked if the residents will have any other access roads besides Huntington Street and Pembroke Lane. Mr. Gulbranson stated there eventually will be two (2) additional access points on the west side of the property. Ms. Twigg asked when those points will be put in. Mr. Gulbranson stated when this section of the development is built out, the next phases will be to make those connection points.

Mr. Yeager asked if a contractor comes down Huntington, and he makes a right-hand turn onto the construction road, can a barricade be put there? Mr. Evans stated that would be up to Council if they want to put sawhorses there and no one would have access to Summerset Boulevard. Mr. Thompson stated the specifics of how to block off the road can be a part of the traffic calming plan, but if you block the road, construction vehicles may make that mistake once but only once.

Mr. Thompson stated there was some concern over whether to table this matter, but Mr. Thompson's suggestion is the traffic calming condition is a benefit to the public in a sense that the developer will want to start building as soon as they can and they need to meet that condition before they do so. Mr. Small stated Mr. Thompson anticipated perfectly where Mr. Small was going, and Mr. Small is contemplating offering a motion to table, but Mr. Small does not desire to delay this unnecessarily. Mr. Small stated he also feels no compelling reason to vote on this right away, particularly with the uncertainties facing the MBTS residents and who exactly the Town will be talking to, so Mr. Small is contemplating if Council could table this matter until its January, after a new management company has taken charge of MBTS. Mr. Thompson stated the approval creates the incentive for the developer and the burden gets handed to them after this is approved; and regardless of who the management company is, the conditions under this motion will remain. Mr. Small asked if there is a compelling reason why Council must vote on this tonight. Mr. Thompson stated

that is not up to him, but that's also not the standard as people are entitled to have the process move at a reasonable pace. Mr. Small stated he doesn't see much satisfaction in the audience tonight when it comes to Council moving forward on this tonight. Mr. Small asked the audience how many of them are comfortable with the conditions to address their safety concerns for the time being. Ms. Brewer stated she thinks Mr. Thompson should repeat the conditions in the motion again before an audience vote is taken. Mr. Thompson stated the conditions are to have a traffic calming plan approved by the Town, as well as an approved plan for the construction access, and the construction on this section would not be able to start until these conditions have been met. The audience stated they were satisfied with those conditions.

Mr. Small stated seeing how the audience is satisfied with those conditions, Mr. Small will second the motion. Mr. Maneri recused himself. Ms. Brewer voted yes. Mr. Small voted yes. Mayor Gordon voted yes. Motion carried 3-0-1 refusal.

- B.** Discuss and possible vote on Resolution 17-04. Synopsis: If adopted, Resolution 17-04 would set an application fee in the Town's fee schedule for deannexation from the Town.

Mr. Thompson stated he was approached by Ms. Botchie about a parcel located half in the Town and half in the County, which causes a problem for that parcel. Mr. Thompson stated a withdrawal of property – or deannexation – is in the State Code but not the Town's Code, but the Town has gone through this process only once, with Lord Baltimore Elementary School deannexed from the Town and went entirely into Ocean View, which made sense for police enforcement jurisdiction. Mr. Thompson stated there currently is no fee on the Town's fee schedule for deannexation, so this resolution will set an application fee – for professional Town time and services – and escrow – for professional fees the Town has to pay to the engineer and the attorney – to deannex from the Town. Mr. Thompson stated just because the applicant pays the fee, it does not guarantee that the deannexation will be approved as the Council first votes on whether or not to give its stamp of approval to the deannexation, and if the Council does approve, then it has to go to a special election, which the Town will hold for the public, with a seventy-five dollar (\$75.00) cost from the Department of Elections. Mr. Thompson stated the thought process was to set a fee for this application because other applications have fees as well, and the Town should start charging a fee for deannexation. Mr. Thompson stated the application fee should correlate with the amount of time the Town anticipates that type of application would take. Mr. Thompson further stated, looking at the overall costs of administering a program, and you look at the number of applications for that program, those numbers should match up. Mr. Thompson stated Ms. Botchie thought four-hundred-fifty dollars (\$450.00) would be an appropriate application fee with a thousand dollar (\$1000.00) escrow, and the escrow is for the professional fees, just like rezonings and site plan approvals; but if the project takes less time and less money, then the applicant is refunded the difference, and if the project takes more money, then the applicant has to reimburse the Town for those additional fees.

Deputy Mayor Steve Maneri asked if the only cost to the Town would be the \$75 for the ballot box from the Board of Elections. Mr. Thompson stated yes, that fee as well as the cost

for advertising the election in the local newspaper if the application gets the approval of Council and it moves toward a public vote. Mr. Gulbranson stated in most situations, this will also require a comprehensive plan based on a mapping change, which does need to be advertised. Mr. Thompson stated if the applicant clears the public election, the Town will have to change its zoning map and its comprehensive plan, so there will be some costs for those changes. Mr. Maneri asked if that would be a cost to the Town. Mr. Thompson stated yes. Mr. Evans stated the escrow goes toward all professional fees, including re-mapping, the lawyer, etc. Mr. Maneri asked if the Town would only have to pay for administrative time, the ballot box, and the advertising costs. Mr. Thompson stated yes. Mr. Gulbranson stated the \$450 fee should about cover those costs.

Mayor Gordon stated he thinks the application fee and escrow fee are awfully low, and Mayor Gordon does not want to see the residents of Millville having to pay any more money (in taxes) because someone wants to deannex from Town. Mayor Gordon further stated he's really not sure the escrow will go toward legal fees or engineering fees, but \$1000 today does not cover those costs. Mayor Gordon stated it then becomes the burden of the Town to pick up what's left, and the \$450 for advertising and other fees will be substantial. Mr. Evans stated what the Town has done in the past is the Town will establish an escrow account, and when the account gets down to about one-hundred dollars (\$100) and the Town knows more fees will be incurred, the Town will send an invoice to the developer to inform them the developer has to increase the escrow before any further Town action is taken. Mr. Thompson stated it's important to note with the recent Town charter change, there are no longer metes and bounds so if someone were to withdraw from Town, the Town would change its comprehensive plan, its zoning map, and then record a new survey, and the Town would have to stamp that survey before a Recorder of Deeds would accept it. Mr. Maneri stated his concern is if the escrow goes down, the engineer or lawyer will not wait for their money via the escrow being replenished, so the Town will pay it out, leaving the Town having to pay out a substantial amount of money. Mr. Maneri further stated the Town should not have to pay those fees so if the Town raises the escrow, then the amount should be covered and the Town can still return whatever leftover balance remains. Mr. Thompson stated he understands Mr. Maneri's point because it is a fairly involved process if it goes through all the way, but if it gets rejected, the applicant gets their escrow back. Mr. Thompson stated he thinks there will mostly be engineering costs as opposed to legal costs because Mr. Thompson thinks it is reviewing the maps which would make the cost expensive.

Mr. Maneri stated he thinks the money should come out of the pockets of the applicant and not out of the Town's pocket. Mr. Thompson asked Mr. Maneri if he had a number sum in mind. Mr. Maneri stated he had no number because he doesn't know how much this all is going to cost the Town. Mr. Thompson stated it is difficult to generalize when it comes to these kinds of things, but, from a legal standpoint, it may be two (2) hours of work, to which Mr. Thompson would bill the Town one-hundred-eighty-five dollars (\$185.00). Mr. Maneri stated he does not feel the Town should have to pay a dime for something like this. Ms. Brewer asked if anyone knows how these figures were arrived at. Mr. Thompson stated he doesn't know if Ms. Botchie just used the escrow requirement. Mayor Gordon stated Ms.

Botchie came up with those amounts based on how much she thought would cover the costs. Mr. Thompson stated he thinks Ms. Botchie might have compared it to the other escrow requirements. Mr. Thompson asked how much escrow the Town requires for a site plan. Mr. Evans stated twenty-five-hundred dollars (\$2500.00) and, he thinks, a four-hundred-fifty dollar (\$450.00) application fee (NOTE: a site plan review for structures under 7500 square feet are \$450 with a \$1000 escrow; and for structures over 7500 square feet, \$750, with a \$2500 escrow). Mr. Evans stated the escrow will not “burn up in the first few minutes” so if the escrow goes down, then it will need to be replenished before any further action was taken. Mr. Evans stated the Town replenishes the escrow so Council could raise the escrow to fifty-thousand dollars (\$50,000.00), but if the applicant uses the \$50,000, the Town will still ask the applicant to replenish the escrow. Mr. Gulbranson stated he thinks the Town is covered in terms of the language for the escrow account, but Mr. Gulbranson is hearing concern over the Town’s application fee. Mr. Maneri stated his concern is with both fees because the Town still has to wait for the escrow money to be replenished and Mr. Maneri knows that lawyers and engineers will not be waiting for their money to carry on with business, so the Town will have to front that money until the escrow is replenished. Mr. Gulbranson stated he thinks the Town’s policy is the Town does not pay anything until the escrow has been replenished, and the Town’s staff is “right on it” so the escrow gets replenished quickly. Mayor Gordon stated, to him, Council is trying to defer people from deannexing from Town because when people start leaving Town, the property tax they were paying is put on the burden of every other Town resident. Mr. Gulbranson stated Council certainly doesn’t want to encourage people to deannex. Mayor Gordon stated yes, and he thinks if Council raises the application fee and the escrow, that will be a deterrent to people to make that change. Mr. Thompson stated the fee should correlate to the amount of Town time and resources which would fall under the application fee, and the escrow requirement will, Mr. Thompson thinks, take as much time on Mr. Gulbranson’s part as a site plan does.

Mr. Small stated he had spoken this morning with a gentleman who may be seeking this petition and he, like the Town and Council, is held hostage by an arbitrarily drawn line by the County, so from a taxation standpoint, the property owner must pay the full tax on the entire plat to the County and the full tax to the Town, which is not too bad because a property owner would have to do that anyway; but the Town would be in the weird position of having to approve something that is technically not built in its Town limits. Mr. Small stated it ought to be a whole lot easier and cheaper to join the Town rather than leave it, but what exactly is the appropriate amount to do so, Mr. Small does not know. Mr. Small further stated when he asked the gentleman today whether it would be easier for him to resolve the discrepancy if the Town could come to terms on other issues, wouldn’t it be easier and cheaper to petition for annexation into the Town rather than deannexation. Mr. Small stated the gentleman stated no, it’s much more expensive for annexation, and this resolution should go to help that so, in principal, Mr. Small agrees with this fee, but Mr. Small is certain this gentleman will take it as this resolution being something the Town only did in regard to his perspective action. Mr. Small stated he believes the fee needs to be more substantial and the Town should not have to pay a cent. Town Executive Assistant Matt Amerling stated if a deannexation is approved, then it is up to the applicant to pay for a recordable map or plot to be created and then recorded at the Recorder of Deeds office. Mr.

Thompson stated yes, but the Town will still have to pay for the change of the zoning map and comprehensive plan maps, which falls under the escrow. Mr. Thompson stated there is no current fee in place apply to deannex, which a person is permitted to do under Title Twenty-Two (22) of the State Code, so the issue before Council tonight is whether Council wants to establish a fee or not. Mr. Thompson stated he understands Mr. Small's thinking of this gentleman feeling he is "singled out," but it always takes some instance to prompt a change. Mr. Small stated it does and he agrees with the thrust of this, and he senses his colleagues will vote in favor of this, and since Mr. Small's hope is to negotiate with the gentleman to find a solution to this which will have him petitioning for annexation rather than deannexation, Mr. Small thinks he will likely abstain or vote nay, depending on how many "aye"s are cast. Mr. Thompson stated to compare with annexation, does the Town charge per acre. Mr. Evans stated yes, for annexation, for up to one (1) acre, the Town charges five-hundred dollars (\$500), and one (1) acre or more is eight-hundred-fifty dollars (\$850) for the application fee, plus two-thousand-five-hundred dollars (\$2500) escrow, and "additional fees shall be charged to applicant to cover professional engineering and legal fees; said fees will be placed in escrow with an initial amount of \$2500.00; additional escrow funds will be required if initial amount is depleted and additional professional fees are incurred." Ms. Brewer asked why can't Council make the same fees for deannexation. Mr. Small asked to make one set of fees higher and the other lower. Mr. Thompson stated the only issue before Council tonight is setting of a deannexation fee. Mr. Small stated he still has a problem with the escrow amount. Mr. Evans stated he understands Mr. Small wants to make sure the amount is covered for fees, but even if the escrow was five dollars (\$5), all of the professional fees would have to be paid by the applicant regardless. Mr. Small stated he understands but to have the annexation fee and deannexation fee to remain the same amount just for consistency is beyond him as Mr. Small feels it should cost more leaving the Town than annexing in, because Mr. Small is interested in increasing the Town's revenue base. Mr. Evans stated if that is the case then Council needs to set another meeting where it is discussed what the annexation fee should be. Mr. Small stated he thinks he'll have to cease negotiations with the gentleman. Mr. Evans stated he doesn't think the Town's previous policy is to solicit annexation, but rather, it is the individuals who come to the Town and request the Town, not the other way around. Mr. Small stated there certainly is a factor when a person asks "what is this gonna cost me?" and "will you negotiate?" Mr. Evans stated you cannot get into that when the fees are already established. Ms. Brewer stated the Town does not approach an individual about annexing into the Town. Mr. Thompson stated Council should continue the annexation discussion for another workshop. Mr. Thompson stated what is under review tonight is the proposed fees, unless Council wants to go with the three fees of five-hundred dollars (\$500), and one (1) acre or more is eight-hundred-fifty dollars (\$850) for the application fee, plus two-thousand-five-hundred dollars (\$2500) escrow. Mr. Small stated he seeks to amend the escrow amount to thirty-five-hundred dollars (\$3500.00). Mayor Gordon agrees with the higher cost.

Ms. Brewer motioned to approve Resolution 17-04, with the amendments of the application fee being five-hundred dollars (\$500) for less than one (1) acre, eight-hundred-fifty dollars (\$850) for one (1) acre or more, and a thirty-five-hundred dollar (\$3500.00) escrow

requirement. Mayor Gordon seconded the motion. Motion carried 3-1, with Mr. Small opposing.

10. PROPERTY OWNERS/AUDIENCE COMMENTS AND QUESTIONS

Mr. Dwight Yeager, of Tudor Place, asked if the other plans for the other sections of Sea Star Village will be open to the public for review prior to the Town Council meeting. Mr. Thompson stated yes, they are public documents as set in the Freedom of Information Act (FOIA).

11. ANNOUNCEMENT OF NEXT MEETING

Mayor Gordon stated the next scheduled meeting will be the Town's workshop on November 22, 2016, although there is a chance the meeting may be canceled due to the Town Hall having to be closed because of electrical work on the building and the new building.

12. ADJOURNMENT

Mr. Small motioned to adjourn the meeting at 8:52 p.m. Deputy Mayor Maneri seconded the motion. Motion carried 4-0.

Respectfully submitted,
Matt Amerling, Executive Assistant